

The complaint

Ms M complains about QIC Europe Limited (QIC) who declined her claim on her buildings insurance policy.

What happened

Ms M made a claim on her buildings insurance policy that she held with QIC, for her collapsed boundary wall. She wasn't present when the wall had fallen, but as there was some construction taking place near the wall, she asked the contractors whether they had hit it. As she felt a construction vehicle had collided with the wall causing the damage. The contractors denied hitting the wall.

Ms M's claim was investigated by QIC who ultimately declined the claim. It said that the damage to the wall was caused by wear and tear given the age of the wall. It said that there was no evidence of a collision having taken place. And it gave Ms M her referral rights.

Ms M referred a complaint to our service. One of our investigators considered the complaint and thought that it should be upheld. She found that under the policy there was cover for damage caused by collisions. She also found that there were exclusions on the policy namely if there was wear and tear found, then a claim could be declined. But she said that the onus was on QIC to show that the exclusion applied. And she didn't think QIC had fairly shown this. She based this on QIC's field surveyor's report, that concluded that the damage was caused by a collision.

She also said that when she compared QIC's in-house surveyors report she didn't think the conclusion that there was no paint seen on the wall. And that it was feasible that if the wall had been in such poor condition, it should have fallen all at once, which wasn't the case. So, she recommended that QIC re-assess the claim under the remaining policy terms and that it award Ms M £175 compensation for the trouble and upset this caused.

Ms M accepted the view. QIC did not. It said that its decision that it made, that there was no cover for the boundary wall was correct. As there was no evidence that the wall had been struck by a vehicle. There was evidence of wear and tear as there was crumbling mortar and the individual separation of the bricks, indicated that the wall was in poor condition. So, it asked for a decision from an ombudsman.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I will uphold this complaint, for much the same reasons as our investigator. And I will explain why I think this is fair.

Ms M made a claim to QIC for a damaged boundary wall. Although she wasn't present when the wall was damaged, she believed that it had become damaged due to work that was being carried out on land next to her wall. Ms M explains that she felt that the wall had been collided into by a contractor's vehicle, causing the wall to collapse.

QIC sent a field surveyor to assess the damage and to take photos. His report and the photos were then reviewed by QIC's in-house surveyor. The in-house surveyor concluded that the damage to the wall was caused by wear and tear. They felt that there was no evidence of a collision as there was no paint on the wall. It seems that the in-house surveyor had reached their conclusions primarily on the basis of the photographs, as there is no evidence that they attended the site.

I have reviewed the policy terms and conditions and I'm satisfied that cover on the policy is available for collisions: *'Collision damage. We will cover loss or damage caused by being hit by: a. an animal, vehicle or train: or b. aircraft or other flying device (or any items dropped from these).'*

The issue here is the cause of the damage to the wall. Ms M has provided evidence from contractors she used. That contractor has concluded that the damage to the wall was due to impact from a vehicle. Also, having reviewed QIC's field surveyor report, it said the following: *'It is believed that the builders have hit the garden wall and caused this to come down. Evidence of a bent arris fence panel and pole can be seen and the area of impact is believed to be in the centre of the wall. The wall is 18.7m long and 2.2m high the whole wall has been affected from the impact.'* The surveyor goes on to conclude that: *'I cannot see any other way this has fallen down. No trees or previous leans are apparent.'*

From this evidence, the field surveyor provides information of what he actually saw – namely a bent arris fence panel and pole. He also provides information on how the wall became damaged. In that the only way he thought the wall came down was due to an impact having occurred.

The in-house surveyor (whom I note didn't have the benefit of physically inspecting the wall, unlike the field surveyor) only carried out an inspection of photos. From the photos, the in-house surveyor deduced that there was no paint on the walls (from being hit). In addition, it said that when a wall that is in good condition falls, it breaks into chunks. Here the wall broke into individual bricks, which indicated that the mortar was in a poor state. So, this indicates that the damage was caused due to wear and tear and not due to a collision.

Given there are two consistent reports that conclude that the damage to the wall was due to an impact, and that both the field surveyor and independent contractor carried out visual physical inspections of the wall. I'm persuaded that the damage to the wall was more likely than not, caused by an impact. Also, I note the damage to the arris fence panel that was bent and a pole. I think it's reasonable that an impact would've caused this type of damage.

Based on all of the evidence, I don't think QIC have been fair to decline the claim under the policy exclusion of wear and tear. And I don't think it has provided enough evidence to show that the damage to the wall wasn't caused by an impact. To be fair to both parties, I think QIC ought to re-assess the claim under the remaining policy terms. Also, given the impact this had on Ms M, I think it's fair and reasonable for QIC to acknowledge this and pay compensation of £175, for the trouble and upset caused.

Putting things right

To put matters right, I direct QIC as below.

My final decision

For the reasons given, I uphold Ms M's complaint.

QIC Europe Limited to re-assess the claim under the remaining policy terms.

QIC Europe Limited must pay Ms M £175 compensation for the trouble and upset caused.

QIC Europe Limited must pay the amount within 28 days of the date on which we tell it Ms M accepts my final decision. If it pays later than this, it must also pay interest on the amount from the date of my final decision to the date of payment at 8% a year simple.

If QIC Europe Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Ms M how much it's taken off. It should also give Ms M a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 3 February 2023.

Ayisha Savage
Ombudsman